

# Creativity in Focus Film Tax Credit Guidelines

Program Guidelines | August 2007

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# Table of Contents

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## **Creativity in Focus Film Tax Credit**

|   |   |
|---|---|
| A. Introduction . . . . .                             | 1 |
| B. Eligible Projects . . . . .                        | 1 |
| C. Amount of Tax Credits Available . . . . .          | 1 |
| D. Application for Tax Credits . . . . .              | 1 |
| E. Approval by the Pennsylvania Film Office . . . . . | 2 |
| F. Acceptance of Tax Credit Approval . . . . .        | 2 |
| G. Issuance of Tax Credit Certificates . . . . .      | 3 |
| H. Use of Tax Credits . . . . .                       | 3 |

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# Creativity in Focus Film Tax Credit

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## A. Introduction

The Commonwealth of Pennsylvania, through the Department of Community of Economic Development (the “Department”), and The Pennsylvania Film Office administers the Pennsylvania Film Production Incentive, also known as “*Creativity in Focus.*” (the “Program”). The Program was established to promote the film industry in Pennsylvania, creating new jobs, promoting tourism, and enhancing the Commonwealth’s economy. The following information is designed to explain the Program and the application and award processes.

## B. Eligible Projects

Projects eligible for tax credits under the Program include the production of a feature film, a television film, a television talk or game show series, a television commercial, a television pilot or each episode of a television series intended as programming for a national audience.

A production featuring news, current events, weather and market reports, or public programming, sports events, awards shows, or other gala event, a production that solicits funds, a production containing obscene material or performances as defined in 18 PA.C.S. § 5903(b) (relating to obscene and other sexual materials and performances) or a production primarily for private, political, industrial, corporate or institutional purposes, are NOT eligible projects.

At least 60% of the project’s budget must be used for production expenses incurred in Pennsylvania and approved by the Pennsylvania Film Office. These expenses include: the costs of construction, operations, editing, photography, sound synchronization, lighting, wardrobe and accessories, travel to and from PA, and the cost of rental or purchase of facilities and equipment from a Pennsylvania taxpayer. Salaries and wages including fringe benefits earned in Pennsylvania and subject to Pennsylvania taxes are also considered Pennsylvania production expenses. However, no more than \$15 million in payments for services to be provided by performing artists, whether directly or through a “loan-out” company, may be included in the determination of qualified production expenses.

## C. Amount of Tax Credits Available

The aggregate amount of tax credits permitted by law for the 2007-08 fiscal year (ending on June 30, 2008) is \$75 Million; subject to that limitation, the Program authorizes tax credits for 25% of Pennsylvania production expenses for an eligible project.

## D. Application for Tax Credits

1. To be eligible for tax credits under the Program, an application, accompanied by a detailed project budget and such other information as required by the Department, must be submitted to the Pennsylvania Film Office via fax, email, or regular mail. Applications are available at <http://www.filminpa.com/filminpa/econIncentives.jsp>.
2. Expenses not included in the budget submitted with the application will not be eligible for the award of tax credits.
3. Applications may be filed no sooner than 90 days prior to the start date of principal photography in the Commonwealth specified by the applicant in its application.

4. Applicants must provide evidence that financing for the project has been secured or will be secured prior to the planned start date.
5. An interview is required with the Director of the Pennsylvania Film Office (in person or by phone) to discuss the application.

## **E. Approval by the Pennsylvania Film Office**

The Pennsylvania Film Office will endeavor to approve or deny applications within 30 days after receipt of all required information. The approval will include a determination of the amount of tax credits for which the project is eligible.

## **F. Acceptance of Tax Credit Approval**

1. Acceptance of the approved grant of tax credits must be made by returning a signed copy of the Pennsylvania Film Office approval letter to the Pennsylvania Film Office by certified mail or other traceable form, signed by an officer of the production company, indicating acceptance of the terms of the approval.
2. Upon receipt of a notice of approval the applicant must file a Single Application for Assistance with the Department. This application is available at <http://www.newpa.com/programFinder.aspx>. The Single Application for Assistance is a DCED standard application and an essential step in securing an award of tax credits. Appendix B is a sample Creativity in Focus Single Application. Applicants need only fill out the highlighted sections and provide a Pennsylvania tax identification number. Tax Numbers can be obtained at <http://www.dos.state.pa.us/corps/cwp/view.asp?a=1093&Q=431182&corpsNav=|>. Corporations (including S Corps and LLC's) for which neither Articles of Incorporation (domestic, PA) or a Certificate of Authority (foreign, non PA) have been filed must make the appropriate filing with the Pennsylvania Department of State. Once filed, information is automatically sent to the Department of Revenue, where a tax ID is issued.
3. After acceptance of the application by the Pennsylvania Film Office and submission of the Single Application by the applicant, the applicant will be required to enter into a formal agreement with the Department obligating the applicant to comply with program terms and conditions, including but not limited to the following:
  - a. Provide evidence to the Pennsylvania Film Office that production has commenced in Pennsylvania (e.g. a production report).in accordance with the terms of the Program and these Guidelines. In situations where the applicant is able to clearly and convincingly demonstrate to the satisfaction of the Pennsylvania Film Office that exigent circumstances have caused an unavoidable delay in the commencement of production, in its sole discretion, the Pennsylvania Film Office may agree to extend the start date by up to an additional 120 days upon receipt of satisfactory evidence that the production will commence within the time period of such extension.
  - b. Provide monthly progress reports to the Pennsylvania Film Office until completion of the production.
  - c. Upon completion of the production (delivery of the completed film to the investors), the production company must submit a report of all production expenses and all qualifying Pennsylvania expenses. Each expense shall include the amount and date the expense was incurred, the identification of vendors and employees paid, and the tax ID or social security number of each payment recipient. The report shall be audited by an independent CPA and shall be delivered to the Pennsylvania Film Office.

- d. Provide economic impact information as requested by the Pennsylvania Film Office within 60 days of completion of the production using the form attached hereto as Appendix D.
- e. Each successful applicant of a feature film or TV show must include with the end credits, in each print and /or electronic version of the project, an acknowledgment of the support provided by the Pennsylvania Film Office and the logo of the Pennsylvania Film Office. The logo appears as Appendix E of these guidelines.
- f. Such other terms and conditions as the Pennsylvania Film Office deems appropriate.

### **G. Issuance of Tax Credit Certificates**

Tax credit certificates will be issued within forty-five (days) after Pennsylvania Film Office review and approval of the audit and other required information. The amount awarded will not exceed the amount requested in the application.

### **H. Use of Tax Credits**

A production may use, or carry-over tax credits for a period of three years. It may also sell or assign unused tax credits, provided that such sold or assigned tax credits must be used by the purchaser or assignee in the taxable year in which the tax credit is sold or assigned. Tax credits available to a purchaser/assignee are limited to 50% of any one qualified tax liability as provided in Section 1705 D of the Act of March 4, 1971 (P.L. 6 No. 2), The Tax Reform Code;. Requests for approval of the sale or assignment of tax credits may be obtained from the Pennsylvania Film Office, or at [www.filminpa.com/assignment](http://www.filminpa.com/assignment).